

Defendant

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COMPLAINT AND DEMAND FOR JURY TRIAL

COMPLAINT

BLAIR JONES (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against SOUTHWEST CREDIT SYSTEMS, L.P. (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.* and the Telephone Consumer Protection Act, ("TCPA"), 47 U.S.C. § 227, *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
2 under the laws of the United States.

3 3. Defendant has an office and conducts business in the Commonwealth
4 of Pennsylvania and as such, personal jurisdiction is established.

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6 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

7 **PARTIES**

8 5. Plaintiff is a natural person residing in Philadelphia, Pennsylvania
9 19124.

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11 6. Plaintiff is a "consumer" pursuant to 15 U.S.C. § 1692a(3).

12 7. Plaintiff is a "person" with standing to bring this suit pursuant to 15
13 U.S.C. §1692k(a).

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15 8. Defendant is a debt collection company with its headquarters located
16 at 4120 International Pkwy, Ste. 1100, Carrollton, TX 75007.

17 9. Upon information and belief, Defendant is a corporation that provides
18 call center, collections and debt purchase services to companies in the United
19 States.

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21 10. At all times material hereto, Defendant acted as a "debt collector"
22 within the meaning of 15 U.S.C. § 1692(a)(6), and repeatedly contacted Plaintiff in
23 its attempts to collect a "debt" as defined by 15 U.S.C. § 1692(a)(5) for another
24 person.
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1 11. Defendant acted through its agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.

4 **FACTUAL ALLEGATIONS**

5 12. Upon information and belief, Defendant collects, and attempts to
6 collect, debts incurred, or alleged to have been incurred, for personal, family, or
7 household purposes on behalf of creditors using the U.S. Mail, telephone and/or
8 internet.
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10 13. Upon information and belief, the alleged debt Defendant was seeking
11 to collect arose out of transactions that were related to a Comcast cable debt.
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13 14. Beginning in early to mid-January 2016 and continuing through
14 February 2016, Defendant repeatedly called Plaintiff on his cellular telephone in
15 its attempts to collect a debt.
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17 15. Defendant made these calls from the following phone number: (855)
18 748-6719 and (215) 586-4198. The undersigned has since confirmed that this
19 number belongs to Defendant.
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21 16. During this time Defendant placed calls to Plaintiff using an automatic
22 telephone dialing system and/or artificial or pre-recorded messages.
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1 17. Plaintiff knew Defendant was using an automatic telephone dialing
2 system and/or artificial or pre-recorded message because calls began with a
3 prerecorded message before he was transferred to a live caller.

4 18. Defendant's calls were not for emergency purposes.

5 19. When speaking to a live caller, Plaintiff would routinely state that he
6 was unemployed, unable to make any payments, and to stop calling him.
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8 20. Defendant heard and acknowledged this request.

9 21. However, Defendant did not remove Plaintiff's cellular telephone
10 number from its database and continued to call Plaintiff in its attempts to collect
11 this alleged debt.
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13 22. These repeated and continuous phone calls were aggravating and
14 annoying, especially after Plaintiff told Defendant to stop calling him.
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16 23. Once Defendant was aware that its calls were unwanted any further
17 calls could only have been for the purpose of harassing Plaintiff.

18 24. Lastly, in its attempts to collect the debt, Defendant failed to send
19 Plaintiff written correspondence, within five (5) days of its initial communication
20 with him, advising him of his rights to dispute the debt and/or to request
21 verification of the debt.
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**DEFENDANT VIOLATED THE
FAIR DEBT COLLECTION PRACTICES ACT**

COUNT I

25. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §§ 1692d and 1692d(5).

a. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

c. Here, Defendant violated §§ 1692d and 1692d(5) of the FDCPA when it called Plaintiff's cellular telephone repeatedly and continued to call knowing its calls were unwanted.

COUNT II

26. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. § 1692g(a).

a. A debt collector violates § 1692g(a) of the FDCPA by failing to send to the consumer, within five days after its initial

1 communication with a consumer in connection with the
2 collection of a debt, a written notice containing: (1) the amount
3 of the debt; (2) the name of the creditor to whom the debt is
4 owed; (3) a statement that unless the consumer, within thirty
5 days after receipt of the notice, disputes the validity of the debt,
6 or any portion thereof, the debt will be assumed to be valid by
7 the debt collector; (4) a statement that if the consumer notifies
8 the debt collector in writing within the thirty-day period that the
9 debt, or any portion thereof, is disputed, the debt collector will
10 obtain verification of the debt or a copy of a judgment against
11 the consumer and a copy of such verification or judgment will
12 be mailed to the consumer by the debt collector; and (5) a
13 statement that, upon the consumer's written request within the
14 thirty-day period, the debt collector will provide the consumer
15 with the name and address of the original creditor, if different
16 from the current creditor.

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21 b. Here, Defendant violated § 1692g(a) of the FDCPA by failing
22 to send written notification, within five (5) days after its initial
23 communication with Plaintiff, advising Plaintiff of his rights to
24 dispute the debt or request verification of the debt or providing
25

1 him with the name of the original creditor and the amount of
2 the debt.

3 **DEFENDANT VIOLATED THE**
4 **TELEPHONE CONSUMER PROTECTION ACT**

5 **COUNT III**

6 27. Plaintiff incorporates the forgoing paragraphs as though the same
7 were set forth at length herein.

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9 28. Defendant initiated multiple telephone calls to Plaintiff's cellular
10 telephone using an automatic or "predictive" dialing system.

11 29. The calls were made using an artificial or pre-recorded voice.

12 30. Defendant's calls to Plaintiff were not made for emergency purposes.

13 31. Plaintiff verbally revoked any prior consent he may have given to
14 Defendant to call his cellular telephone.

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16 32. Defendant's acts as described above were done with malicious,
17 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
18 under the law and with the purpose of harassing Plaintiff.

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20 33. The acts and/or omissions of Defendant were done unfairly,
21 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
22 lawful right, legal defense, legal justification or legal excuse.
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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, BLAIR JONES, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

Date: 02/02/17

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